



Legislation Text

File #: RES 19-0026, **Version:** 1

ITEM TITLE:

#19-26 - Authorizing a Five-year Gravel Lease for RSR Contracting, LLC on a Portion of Tract A, ASLS 79-116 (1500 Airport Road)

SUBMITTED BY: Kate Huber, Senior Planner

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

When considering approval of this gravel lease with RSR Contracting, LLC, please note the recommended lease conditions provided by staff.

SUMMARY STATEMENT:

On April 15, 2019, the Planning Department received an application from Roger Kipar on behalf of RSR Contracting, LLC, for a gravel lease on a 37-acre portion of Tract A, ASLS 79-116 (1500 Airport Road). The proposed site for gravel extraction is located to the east of the City of Valdez Police Department Shooting Range and to the southwest of Valdez Glacier Lake. Tract A covers a large area of over 1,000 acres. It was a municipal entitlement selection made by the City and was officially conveyed from the State of Alaska in 1992. The tract is currently zoned for heavy industrial uses. Per VMC 17.38.040 J, natural resource extraction requires a conditional use permit.

Lease Area Information

Property Owner: City of Valdez

Access: Airport Road (see site plan)

Current Uses: Shooting range, natural resource extraction, recreation

Zoning District: Heavy industrial

The H-I (heavy industrial) district is intended for industrial development, including heavy manufacturing, shipping terminals, natural resource extraction and other processes or operations which involve one or more of the following: employs large numbers of workers, heavy truck traffic, significant environmental effects or large-volume public water or sewer service or storage of hazardous materials under a conditional use permit. (VMC 17.38.01)

Adjacent Zoning Districts: Heavy industrial, public lands

Application Process

Mr. Kipar began the process of proposing this gravel lease with his application for a conditional use permit for gravel extraction in this location. CUP #19-01 was approved by the Planning & Zoning Commission on March 13, 2019. The permit gives approval for gravel extraction using heavy equipment (as detailed in Mr. Kipar's conditional use permit application) on 37 acres of Tract A, ASLS 79-116. Conditions of the permit include that Mr. Kipar must secure an approved gravel lease for the area and that the term of approval of use is limited to ten years. Per VMC 17.06.070 (B), any conditional use shall be conditioned upon the privilege granted being utilized within 12 months after the effective date of approval. CUP #19-01 is attached for your reference.

As a part of the conditional use permit process, a public hearing was held at the February 27, 2019 Planning & Zoning Commission regarding the proposed conditional use. During the public hearing, Mr. Jesse Passin spoke about the process that he went through to obtain a gravel lease from the City in 2016. After requesting an uplands gravel lease in a similar area, Mr. Passin was told by the Planning Department that there would not be any new uplands gravel leases established in the area west of Valdez Glacier Stream and the only option available for new gravel leases was extraction from the rivers. Mr. Passin spoke of the process he went through to permit gravel extraction in Valdez Glacier Stream and the subsequent lease he secured from the City of Valdez for equipment storage and gravel processing. Mr. Passin expressed frustration regarding the costs associated with this process and method of extraction.

In addition to public comment, Planning Department staff spoke with Police Chief Hinkle about the proximity of this proposed use to the VPD Shooting Range. Chief Hinkle did not have any objections to the CUP application, as submitted.

Lease Application

Mr. Kipar is now requesting a 10-year lease on 37 acres of Tract A, ASLS 79-116. See attached site plan from the applicant for more detail regarding extraction area, stockpile location, and parking/access. The applicant seeks to provide an alternative source of material for Valdez by establishing the proposed gravel pit. RSR Contracting, LLC, would like to use the extracted material for their own projects and sell gravel products to private and commercial businesses in Valdez.

On April 24, 2019, the Planning and Zoning Commission voted to approve a recommendation to City Council to authorize this gravel lease with RSR Contracting, LLC for a portion of Tract A, ASLS 79-116 for a term of 5 years. The information presented to the commission at that time included the following recommendations and concerns from staff:

Recommended Lease Conditions

1. **Survey of the lease area** to establish a metes and bounds description of the leased lands.
2. **Phase 1 Environmental Assessment** to determine baseline conditions of the land prior to establishment of the lease agreement. The Planning Department requires such an assessment prior to the execution of every lease.
3. **Restoration of the land** and removal or reversion of improvements upon termination of lease, as required by VMC 4.08.260.
4. **Buffer area** surrounding lease to provide separation from City of Valdez Police Shooting

Range and Airport Road, as suggested by Planning & Zoning Commission during discussion of CUP #19-01. Staff recommends that lease location and area be reduced to allow for a larger buffer area outside of the lease boundary.

5. **Lease term of 5 years.** Staff is recommending that the lease be restricted to 5 years in length. The 2005 City of Valdez Property Management policies and procedures states that “leases of City land should not be for greater than five (5) years, unless it is in the public interest for the City to enter into a longer-term agreement.” (See full document attached.) Staff believes this is enough time to allow RSR Contracting to develop the proposed pit, but allow the use to be reevaluated at a later date based on a proposed gravel management plan and the forthcoming comprehensive plan update.
6. **Annual minimum payment of \$3,000** with a charge of \$0.60/cubic yard for every cubic yard of gravel over 5,000 extracted each year. This minimum follows the format of recent gravel leases. The rate of \$0.60/cubic yard of material was set by City Council resolution in 1992. See attached resolution 92-16 for more detail. In the application for CUP #19-01, Mr. Kipar stated his intention to remove 5,000 cubic yards of gravel each year.
7. **Public notice**, as required per VMC 4.08.160, no lease shall be effective until public notice, as provided in this chapter, shall have been given for at least 30 days. As required by code, any resolution approving the gravel lease proposed by Mr. Kipar will be published twice in the Valdez Star for one week and will be posted on the official city bulletin board and in two other public places in the city for 30 days prior to the effective date of the lease.

Lease Location Concerns

At the time the Planning & Zoning Commission considered CUP #19-01 for the use of gravel extraction at the site of the proposed lease, staff recommended that the commission deny the application. A proposed findings & conclusions report was included that highlighted several concerns about a potential gravel lease at this site including:

Riverine gravel extraction preferred

Staff believes it is in the public interest for gravel extraction to take place in Mineral Creek, Valdez Glacier Stream and the Lowe River. The City is working to establish a new gravel management plan, through consultation with professional engineers and hydrologists, to determine the best areas for riverine and upland gravel extraction.

It should be noted that the Planning & Zoning Commission considered an application from Mr. Kipar for a gravel extraction CUP in 2018 for a different area of Tract A, ASLS 79-116, closer to Valdez Glacier Stream. After the Planning & Zoning Commission voted to deny the CUP, staff agreed to work with Mr. Kipar to determine an alternative location for gravel extraction. The area being currently considered for ASLS 79-116 is preferred by staff to the previous site and is one that was presented by the City as a better alternative for upland gravel extraction.

Possible flooding issues

The Valdez Glacier Lake is subject to annual or biannual outburst flooding events due to the formation of ice dams in the upper lake. Without further study of the hydrology of this area, and given the existing recreational uses surrounding the Valdez Glacier Lake, staff believes that new gravel extraction operations should not be established in this area until the new gravel management plan

can be developed taking into account public health and safety. A map showing the current effective flood zone boundaries for the 1500 Airport Road area is attached. It is important to remember that these maps are a tool developed to determine flood insurance requirements and rates. A contour map showing the topography of the area was also included for reference.

Incompatible land uses

As stated above, the current uses of this area are an incompatible mix of heavy industrial and recreation.

Gravel is a valuable resource that is crucial for development and construction projects in the Valdez area. Staff has heard from members of the public and the Planning & Zoning Commission that they would like to see alternative sources of local gravel available for sale. As our elected officials consider important land use decisions regarding natural resource extraction on City property, the Planning Department staff is seeking modern hydrological data and an updated comprehensive plan for land use on which to base our recommendations.